

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

NEXT REALTY LLC	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 16-cv-6327
	)	
NEXT REAL ESTATE PARTNERS LLC;	)	
NEXT RE CAPITAL LLC; NEXT RE	)	
CAPITAL MARKETS LLC; NEXT RE	)	<b>COMPLAINT</b>
PROPERTY MANAGEMENT LLC;	)	
NEXTRE PROPERTIES GROUP LLC d/b/a	)	<b>Jury Trial Demanded</b>
NEXT RE PROPERTIES GROUP LLC;	)	
NEXT RE SPECIALTY FINANCE LLC;	)	
NEXT RE TECHNOLOGIES LLC	)	
	)	
Defendants.		

Plaintiff Next Realty LLC (“Next Realty”) complains against Defendants Next Real Estate Partners LLC, Next RE Capital LLC, Next RE Capital Markets LLC, Next RE Property Management LLC, NextRE Properties Group LLC d/b/a Next RE Properties Group LLC, Next RE Specialty Finance LLC, and Next RE Technologies LLC (collectively referred to as “Next Real Estate”) as follows:

***Introduction***

1. Plaintiff Next Realty has provided real estate brokerage services, real estate investment consulting, real estate development services, and financial advisory services under the NEXT service mark and NEXT REALTY LLC trade name since at least 1998. Next Realty owns and operates a portfolio of real estate assets including nearly a million square feet of retail space, parking structures in major metropolitan markets, and land for retail development. It has affiliates in the Washington D.C. and the Chicago markets, with current operations (management, asset management, consulting, development, leasing and representation) spanning

the Northeast, Mid-Atlantic, Southeast, Midwest and West regions. The firm has completed consulting assignments in New York City, and has many clients, colleagues, and investors who reside there.

2. Nevertheless, long after Next Realty began use of its service mark and trade name and apparently on or about April of 2015, defendant Next Real Estate began using the trade name “Next Real Estate Partners LLC” in connection with real estate investment services, and Next Real Estate subsequently began using additional names and marks beginning with the word “Next” in connection with real estate investment services. Next Realty demanded that Next Real Estate cease use of the names and marks including “Next,” but Next Real Estate continued to use its “Next” names and marks even after being notified of its ongoing infringement of Next Realty’s service marks in June of 2016.

### *The Parties*

3. Plaintiff Next Realty LLC is a limited liability company duly organized and existing under the laws of the State of Illinois. Next Realty LLC has its principal place of business at 5215 Old Orchard Road, Suite 880, in Skokie, Illinois.

4. Upon information and belief, defendant Next Real Estate Partners LLC is a New York limited liability company, having its principal place of business at 29 Barstow Road, Suite 203, in Great Neck, New York.

5. On information and belief, defendant Next Real Estate Partners LLC is the parent company of defendants “Next RE Capital LLC,” “Next RE Capital Markets LLC,” “Next RE Property Management LLC,” “NextRE Properties Group LLC” d/b/a “Next RE Properties Group LLC,” “Next RE Specialty Finance LLC,” and “Next RE Technologies, LLC,” all of which use

the “Next” mark followed by the term “RE” in connection with real estate investment services (collectively referred to as “the Next RE Marks”).

6. Upon information and belief, Next RE Capital LLC is a New York limited liability company, having its principal place of business at 29 Barstow Road, Suite 203, in Great Neck, New York.

7. Upon information and belief, defendant Next RE Capital Markets LLC is a New York limited liability company, having its principal place of business at 29 Barstow Road, Suite 203, in Great Neck, New York.

8. Upon information and belief, defendant Next RE Property Management LLC is a New York limited liability company, having its principal place of business at 29 Barstow Road, Suite 203, in Great Neck, New York.

9. Upon information and belief, defendant NextRE Properties Group d/b/a Next RE Properties Group LLC is a New York limited liability company, having its principal place of business at 29 Barstow Road, Suite 203, in Great Neck, New York.

10. Upon information and belief, defendant Next RE Specialty Finance LLC is a New York limited liability company, having its principal place of business at 29 Barstow Road, Suite 203, in Great Neck, New York.

11. Upon information and belief, defendant Next RE Technologies LLC is a New York limited liability company, having its principal place of business at 29 Barstow Road, Suite 203, in Great Neck, New York.

#### ***Jurisdiction and Venue***

12. Next Realty’s claims arise under the Lanham Act, codified at 15 U.S.C. §§ 1051, *et seq.*

13. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338(a).

14. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).

### ***Background***

15. Since 1998, Plaintiff generally has been referred to as “Next Realty” or Next Realty LLC.”

16. Since 1998, Next Realty has continuously provided real estate brokerage services, real estate investment consulting, real estate development services, and financial advisory services in connection with the service mark NEXT. These services include investments exceeding \$500 million in gross asset value, totaling nearly 2 million square feet of retail space and management of more than 8,200 parking spaces currently located in various cities across the U.S. from Philadelphia to San Francisco.

17. Next Realty owns multiple federally registered service marks containing the term “NEXT.” Next Realty’s federally registered service marks include the following:

<b>Mark</b>	<b>Reg. No. / Reg. Date</b>	<b>Goods/Services</b>
NEXT	2383949 09/05/2000	Real estate brokerage services, real estate investment consulting, and financial advisory services.
NEXT REALTY MIDWEST	3141792 09/12/2006	Real estate brokerage services; real estate agency services in the nature of assisting tenants with identifying and leasing properties.
NEXT REALTY MID-ATLANTIC	3141788 09/12/2006	Real estate brokerage services; real estate agency services in the nature of assisting tenants with identifying and leasing properties.
NEXT DEVELOPMENT	3414957 04/22/2008	Real estate development services.
THE NEXT PERSPECTIVE IN REAL ESTATE	3100596	Real estate brokerage services, real estate investment consulting, and financial advisory

<b>Mark</b>	<b>Reg. No. / Reg. Date</b>	<b>Goods/Services</b>
	06/06/2006	services.
NEXT PARKING	3191656 01/02/2007	Real estate equity sharing, namely, managing and arranging for co-ownership of real estate; real estate investment; real estate management and real estate syndication.
NEXTPERTS	4343618 05/28/2013	Real estate investment consulting and management services.
NEXTPERTISE	4343619 05/28/2013	Real estate investment consulting and management services.

True and correct copies of each service mark registration listed above are attached to and incorporated by reference into this Complaint as **Exhibit A**. In this Complaint, Next Realty refers to the above-listed federally registered marks collectively as the “NEXT Marks.”

18. The registrations for the NEXT Marks are in full force and effect on the United States Patent and Trademark Office’s Principal Register. All of these registrations issued prior to when defendant Next Real Estate began business under its various names containing the term “Next.”

19. The registrations for NEXT, NEXT REALTY MIDWEST, NEXT REALTY MID-ATLANTIC, NEXT DEVELOPMENT, THE NEXT PERSPECTIVE IN REAL ESTATE, and NEXT PARKING have become incontestable and constitute conclusive evidence of the validity of the marks shown therein, Next Realty’s ownership thereof, and of Next Realty’s exclusive right to use such registered marks in connection with the services set forth within each registration pursuant to 15 U.S.C. § 1115(b).

20. Next Realty advertises and extensively promotes its services under the NEXT Marks, including on its websites at [www.nextrealty.com](http://www.nextrealty.com) and [nextparkingllc.com](http://nextparkingllc.com).

21. Next Realty also has been mentioned in various media outlets across the U.S., including *Crain's Chicago Business*, REJournals.com, the *Milwaukee Journal-Sentinel*, the *Washington Business Journal*, the *Silicon Valley Business Journal*, and the *Nashville Business Journal*.

22. Next Realty has acquired valuable goodwill in the NEXT Marks as a result of its use and promotion of the NEXT marks.

23. The NEXT Marks are recognized as identifying services provided by Next Realty. The NEXT Marks are distinctive and closely associated with Next Realty and its services.

24. Next Real Estate uses the trade name and service mark "Next Real Estate Partners LLC" and the "Next RE Marks" in interstate commerce in connection with real estate investment and related services, including a full range of direct commercial real estate mortgage loans and debt products. Next Real Estate offers its services nationwide.

25. Upon information and belief, Next Real Estate registered the domain name nextrepartners.com on or about April 21, 2015, and began using the Next Real Estate Partners LLC name in or about April of 2015, approximately 17 years after Next Realty began using and promoting its NEXT marks. A true and correct copy of a WHOIS report for nextrepartners.com is attached to and incorporated by reference into this Complaint as **Exhibit B**.

26. According to its website nextrepartners.com ("Defendants' Website"), Next Real Estate is "a boutique real estate investment firm" and "the parent of the NEXT family of companies." A true and correct print-out of the home page for this website is attached to and incorporated by reference into this Complaint as **Exhibit C**. Exhibit C shows the word NEXT in larger letters than, and on a separate line from the words "Real Estate Partners, LLC." The website also includes links to "NEXT RE Capital Markets LLC," "NEXT RE Property

Management, LLC,” “NEXT RE Properties Group, LLC,” “NEXT RE Specialty Finance LLC,” “Next RE Capital LLC,” and “NEXT RE Technologies, LLC.” Those companies’ names are displayed in the same manner as the name NEXT Real Estate Partners, LLC, with special prominence to the word NEXT.

27. Each company within the “NEXT family of companies” has a domain name.

28. Nextrecapital.com registered on or about October 9, 2015.

29. Nextrecapitalmarkets.com registered on or about February 3, 2016.

30. Nextrepropertymanagement.com registered on or about March 4, 2016.

31. Nextrepropertiesgroup.com registered on or about February 3, 2016.

32. Nextrespecialtyfinance.com registered on or about March 4, 2016.

33. Nextretechnologies.com registered on or about October 9, 2015.

34. A true and correct copy of the WHOIS reports for each of the domain names identified above are attached to and incorporated by reference into this Complaint as **Exhibit D**. The real estate services provided by Next Real Estate under its trade name “Next Real Estate Partners LLC” and under the Next RE Marks are the same as or related to the services provided by Next Realty under the NEXT Marks.

35. According to Defendants’ Website, Next RE Capital LLC “is a direct lender offering commercial mortgage loans, mezzanine debt, preferred equity, and equity investments for value-add and opportunistic real estate ventures.” A true and correct copy of the website page is attached to and incorporated by reference to this Complaint as **Exhibit E**.

36. According to Defendants’ Website, Next RE Capital Markets LLC “is a leading real estate investment banking firm offering extensive financing and consulting services

nationwide.” A true and correct copy of the website page is attached to and incorporated by reference to this Complaint as **Exhibit F**.

37. According to Defendants’ Website, Next RE Property Management LLC “offers asset and property management services for [Next Real Estate] investments and third parties.” A true and correct copy of the website page is attached to and incorporated by reference to this Complaint as **Exhibit G**.

38. According to Defendants’ Website, Next RE Properties Group is a “real estate brokerage firm specializing in ‘off-market’ properties located in New York State and other opportunities for its exclusive clientele.” A true and correct copy of the website page is attached to and incorporated by reference to this Complaint as **Exhibit H**.

39. According to Defendants’ Website, Next RE Specialty Finance LLC “offers asset based loans for businesses.” A true and correct copy of the website page is attached to and incorporated by reference to this Complaint as **Exhibit I**.

40. According to Defendants’ Website, Next RE Technologies LLC “offers innovative technology products for the real estate community and businesses nationwide.” A true and correct copy of the Website page is attached to and incorporated by reference to this Complaint as **Exhibit J**.

41. On June 23, 2016, Next Realty sent a letter to Next Real Estate notifying Next Real Estate of Next Realty’s rights in the NEXT marks and requesting that Next Real Estate cease all use of the name and marks “NEXT REAL ESTATE PARTNERS, LLC,” “NEXT RE,” and any use of the name or mark NEXT or any other name or mark confusingly similar to the NEXT Marks registered by Next Realty. A true and correct copy of the letter from Next Realty



to Next Real Estate, dated June 23, 2016, is attached to and incorporated by reference into this Complaint as **Exhibit K**.

42. On July 26, 2016, Next Realty sent another letter to Next Real Estate after not receiving any substantive response from Next Real Estate to its June 23, 2016, letter. In the July 26, 2016, letter, Next Realty's attorney stated that if the matter was not resolved by August 3, 2016, he would "recommend appropriate legal action" against Next Real Estate. Next Real Estate has not responded to the July 26, 2016, letter. A true and correct copy of the letter from Next Realty to Next Real Estate, dated July 26, 2016, is attached to and incorporated by reference into this Complaint as **Exhibit L**.

43. Next Realty has given notice to Next Real Estate of Next Real Estate's infringement of the NEXT Marks, but Next Real Estate has refused to cease such infringement.

**COUNT I**  
**Violation of the Lanham Act – Federal Service Mark Infringement, in Violation of 15 U.S.C. § 1114**

44. Next Realty incorporates the allegations of Paragraphs 1 through 43, inclusive, of this Complaint by reference into this Count as if fully set forth herein.

45. Next Real Estate has used and continues to use in interstate commerce the registered NEXT Marks and reproductions, copies, and colorable imitations thereof in connection with the sale, offering for sale, distribution, and advertising of services which are likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of Next Real Estate's services and commercial activities, and thus constitute infringement of Next Realty's federally registered marks, in violation of 15 U.S.C. § 1114.

46. Upon information and belief, Next Real Estate's actions have been and are willful, deliberate, and done with knowledge of Next Realty's rights.

47. Next Realty has no adequate remedy at law. Next Real Estate's actions complained of in this Complaint are likely to cause, and may already have caused, Next Realty damage and injury and have unjustly enriched Next Real Estate. Unless enjoined by this Court, Next Real Estate will continue to do the acts complained of in this Complaint and cause damage and injury, all to Next Realty's irreparable harm and to Next Real Estate's unjust enrichment.

**COUNT II**  
**Violation of the Lanham Act - Federal Unfair Competition, in Violation of 15 U.S.C. § 1125(a)**

48. Next Realty incorporates the allegations of Paragraphs 1 through 45, inclusive, of this Complaint by reference into this Count as if fully set forth herein.

49. Next Real Estate's acts described in this Complaint constitute a violation of federal unfair competition law, as Next Real Estate has used and continues to use in interstate commerce words, terms, symbols, devices, names, or combinations thereof, or a false designation of origin, which are likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Next Real Estate with Next Realty, or as to the origin, sponsorship, or approval of Next Real Estate's services by Next Realty, in violation of 15 U.S.C. § 1125(a).

50. Upon information and belief, Next Real Estate's actions have been and are willful, deliberate, and done with knowledge of Next Realty's rights.

51. Next Realty has no adequate remedy at law. Next Real Estate's actions complained of in this Complaint are likely to cause, and may already have caused, Next Realty damage and injury and have unjustly enriched Next Real Estate. Unless enjoined by this Court, Next Real Estate will continue to do the acts complained of in this Complaint and cause damage and injury, all to Next Realty's irreparable harm and to Next Real Estate's unjust enrichment.

**COUNT III**

**Violation of the Lanham Act – Anticybersquatting Consumer Protection Act, in  
Violation of 15 U.S.C. § 1125(d)**

52. Next Realty incorporates the allegations of Paragraphs 1 through 51, inclusive, of this Complaint by reference into this Count as if fully set forth herein.

53. At the time of Next Realty’s registration or first use of the nextrealty.com and nextparkingllc.com domain names, each of the NEXT Marks was distinctive.

54. The nextrepartners.com, nextrecapital.com, nextrecapitalmarkets.com, nextrepropertymanagement.com, nextrepropertiesgroup.com, nextrespecialtyfinance.com, and nextretechnologies.com domain names (collectively referred to as “the Next Real Estate Domain Names”) are identical or confusingly similar to the NEXT Marks.

55. Next Real Estate has registered, trafficked in, or used the Next Real Estate Domain Names in interstate commerce with a bad faith intent to profit from the NEXT Marks, in violation of 15 U.S.C. § 1125(d).

56. Next Real Estate’s bad faith intent is demonstrated by numerous factors, including the following:

(a) Next Real Estate had not used the Next Real Estate Domain Names in connection with the bona fide offering of any goods or services prior to Next Realty’s use and registration of the NEXT Marks;

(b) Next Real Estate has made no bona fide noncommercial or fair use of any of the NEXT Marks on a site accessible under the Next Real Estate Domain Names and instead has used the confusingly similar Next Real Estate Partners LLC mark and the Next Re Marks.

(c) At least since receiving actual notice of Next Realty’s rights and objection, Next Real Estate has intended to divert consumers from Next Realty’s

online location to a site accessible under the Next Real Estate Domain Names that could harm the goodwill represented by the NEXT Marks, either for Next Real Estate's commercial gain or with the intent to tarnish or disparage the NEXT Marks, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the sites accessible under the Next Real Estate Domain Names; and

(d) Next Real Estate knows that the Next Real Estate Domain Names are identical or confusingly similar to the NEXT Marks.

57. Upon information and belief, Next Real Estate's actions have been and are willful, deliberate, and done with knowledge of Next Realty's rights.

58. Next Realty has no adequate remedy at law. Next Real Estate's actions complained of in this Complaint are likely to cause, and may already have caused, Next Realty damage and injury and have unjustly enriched Next Real Estate. Unless enjoined by this Court, Next Real Estate will continue to do the acts complained of in this Complaint and cause damage and injury, all to Next Realty's irreparable harm and to Next Real Estate's unjust enrichment.

***Prayer for Relief***

WHEREFORE, Next Realty respectfully requests that the Court enter judgment in favor of Next Realty and against Next Real Estate, granting the following relief:

A. judgment that Next Real Estate has infringed and is infringing the NEXT Marks and Next Realty's trade name;

B. judgment that such infringement by Next Real Estate was and is willful;

C. an accounting and award of damages and disgorgement to Next Realty of Next Real Estate's profits and the amount by which Next Real Estate has been unjustly enriched in an amount to be determined at trial;

D. an award of statutory damages to Next Realty;

E. an order that Next Real Estate compensate Next Realty for the advertising or other expenses necessary to dispel any public confusion caused by Next Real Estate's infringement of the NEXT Marks, unfair competition, misappropriation, breach of contract, and other unlawful acts;

F. transfer of the registrations of the Next Real Estate Domain Names to Next Realty;

G. an order temporarily, preliminarily, and permanently enjoining and restraining Next Real Estate and its officers, agents, servants, employees, successors, assigns, parents, subsidiaries, affiliated or related companies, attorneys, and all others in active concert or participation with them who receive notice of this injunction from:

- i) using any of the NEXT Marks or any confusingly similar mark, name, domain name, or colorable imitation thereof, in connection with Next Real Estate's business which may in any way mislead or confuse anyone as to the source, affiliation, or sponsorship of such business;
- ii) registering, trafficking, using or maintaining the registration of the Next Real Estate Domain Names or any other domain name that is identical or confusingly similar to any of the NEXT Marks;
- iii) otherwise infringing or diluting the distinctive quality of the NEXT Marks;

- iv) injuring Next Realty's business reputation and the goodwill associated with the NEXT Marks and from otherwise unfairly competing, directly or indirectly, with Next Realty; and
- v) causing a likelihood of confusion or misunderstanding as to source, sponsorship, association, affiliation, approval, or certification with or by Next Realty, or engaging in conduct tending to create a false commercial impression of Next Real Estate's services or any other conduct which tends to pass off Next Real Estate's services as those of Next Realty or creates a likelihood of confusion or misunderstanding or false representation;

H. an order directing Next Real Estate to file with the Court, and to serve on Next Realty, within thirty (30) days after entry of the above injunction, a report in writing, under oath, setting forth in detail the manner and form in which it has complied with the injunction;

I. an award to Next Realty of increased damages to fully compensate Next Realty and punitive damages for the willful and wanton nature of Next Real Estate's wrongful acts and because this is an "exceptional" case;

J. an award to Next Realty of its costs and expenses, including all reasonable attorneys' fees and costs recoverable under the Lanham Act, the common law, and any other applicable law or rule;

K. an award to Next Realty of pre-judgment and post-judgment interest; and

L. such other and further relief as the Court deems just and equitable.

### ***Jury Demand***

Next Realty demands a trial by jury on all matters and issues properly tried to a jury pursuant to Rules 38 and 39 of the Federal Rules of Civil Procedure and other applicable federal and state laws.

Dated: New York, New York  
November 14, 2016

By: /s/ Jeffrey M. Movit  
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